

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND  
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
*See* Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

DEC 29 2011

COURT OF APPEALS  
DIVISION TWO

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

THE STATE OF ARIZONA,	)	2 CA-CR 2011-0101
	)	DEPARTMENT B
Appellee,	)	
	)	<u>MEMORANDUM DECISION</u>
v.	)	Not for Publication
	)	Rule 111, Rules of
NATHAN BANARD HORTON,	)	the Supreme Court
	)	
Appellant.	)	
_____	)	

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR20100887001

Honorable José Robles, Judge Pro Tempore

AFFIRMED

Isabel G. Garcia, Pima County Legal Defender  
By Scott A. Martin

Tucson  
Attorneys for Appellant

E S P I N O S A, Judge.

¶1 Following a jury trial, appellant Nathan Horton was convicted of armed robbery, aggravated robbery, and aggravated assault, all dangerous nature offenses.<sup>1</sup> *See*

<sup>1</sup>Although the sentencing minute entry designates the offenses as non-dangerous, it is clear from the record, including the sentencing transcript, the actual sentences imposed, and the verdicts, as well as Horton's opening brief, that they were dangerous. However, in the absence of a cross-appeal by the state, we will not correct the sentencing order to Horton's detriment. *See State v. Dawson*, 164 Ariz. 278, 281-82, 792 P.2d 741, 744-45 (1990).

A.R.S. §§ 13-1904, 13-1903, 13-1204. The trial court sentenced Horton to concurrent, partially mitigated and presumptive prison sentences, the longest of which was eight years. Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999), stating he has reviewed the entire record and has found no “tenable issue” to raise on appeal. He asks this court to search the record for “potential error.” Horton has not filed a supplemental brief.

¶2 The convictions arose from an incident in which Horton and three other individuals held the victim at gunpoint and removed 122 boxes of perfume and cologne from the victim’s vehicle. Viewed in the light most favorable to sustaining the verdicts, the evidence was sufficient to support the jury’s findings of guilt. *See State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999). And, the sentences are authorized by law.

¶3 Pursuant to our obligation under *Anders*, we have searched the record for fundamental, reversible error and have found none. Therefore, Horton’s convictions and sentences are affirmed.

/s/ Philip G. Espinosa  
PHILIP G. ESPINOSA, Judge

CONCURRING:

/s/ Garye L. Vásquez  
GARYE L. VÁSQUEZ, Presiding Judge

/s/ Virginia C. Kelly  
VIRGINIA C. KELLY, Judge